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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,921	07/05/2001	Kevin S. Walters	11331-004	1796

7590

07/17/2003

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EXAMINER

HARTMANN, GARY S

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/897,921

Applicant(s)

WALTERS, KEVIN S.

Examiner

Gary Hartmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/5/1 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al. (Transportation Engineering Planning and Design, 1989) in view of the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana. As discussed in the prior Office actions, Wright et al. discuss methods of roadway design. The roadway system in Louisiana includes a first point (intersection of Interstate 12 and causeway bridge, for example); a second point (intersection of Interstates 12 and 55, for example); an area including water and suitable for supporting a road (Lake Pontchartrain and land there around); a further road (causeway bridge, Interstates 10 and 55) linking the two points. The further road is generally parallel over its length to the shoreline of the body of water and tract of land. There is also one existing road (Interstates 12 between causeway bridge and Interstate 55, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the methods discussed by Wright et al. to obtain the system of roadways in Louisiana in order to obtain an efficient plan for design and implementation.

Regarding claim 2, note that the road including the causeway intersects several existing roads between Interstate 12 and Interstate 10.

Claim 3 has not been given further patentable weight because there are numerous areas that can be considered parallel to tracts of land.

Regarding claim 6, the causeway is a bridge.

Regarding claim 18, the further road as discussed above is greater in length than the existing road.

3. Claims 1-3, 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana in view of Wright et al. (Transportation Engineering Planning and Design, 1989). The road system is discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the methods discussed by Wright et al. to obtain the system of roadways in Louisiana in order to obtain an efficient plan for design and implementation.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana/Wright et al. (Transportation Engineering Planning and Design, 1989) as applied above, and further in view of Haakonsen (U.S. Patent 5,216,773). Haakonsen teaches a method of installing a floating road. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used this method in order to obtain another bridge, thereby increasing roadway capacity across Lake Pontchartrain.

***Response to Arguments***

5. Applicant's arguments filed 7/3/2003 have been fully considered but they are not persuasive. Applicant's arguments regarding hindsight are not persuasive because the rejection is completely based on a known road design method and a known road system. Using a known road design method to design a known road is well within ordinary skill. Further in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding the relative lengths of the roadways, note that the roadways designated as "existing" and "further" have been changed in the rejection above in response to the amendment. This change presents a system meeting claim recitations.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

gh  
July 16, 2003



**Gary Hartmann**  
**Primary Examiner**  
**Art Unit 3671**